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Attorneys for Plaintiff

IN THE UNITED STATES DISTRICT COURT
 FOR THE NORTHERN DISTRICT OF CALIFORNIA

JOESPH FAHEY,

Plaintiff,

vs.

WESTERN CONFERENCE OF
 TEAMSTERS PENSION PLAN,

Defendant.

Case No. C06-06554 CRB

**STIPULATION AND ~~PROPOSED~~
 ORDER TO MODIFY ORDER RE:
 SUPPLEMENTAL EVIDENCE**

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1 WHEREAS on June 22, 2006, this Court issued an order granting leave for the parties to
2 take the depositions of Joseph Fahey and Sergio Lopez on the same day by no later than July 31,
3 2007, with supplemental briefs to be filed with the Court not later than August 10, 2007; and
4

5 WHEREAS Robert F. Schwartz, counsel for Defendant in this action, states: "On Friday,
6 June 22, after receiving the Court's Order regarding further discovery, I attempted to reach Mr.
7 Lopez at his home to inquire about his availability for a deposition in July. A woman who
8 identified herself as Mr. Lopez's daughter informed me that Mr. Lopez was traveling in Mexico
9 and that the family had no way to contact him there. She told me that he was scheduled to return
10 to the Bay Area on July 29, and, depending on his flight time, should return to his home either
11 that day or early on July 30"; and
12

13 WHEREAS Fed. Rule Civ. Pro. 45 requires that a witness must be served with a
14 subpoena for attendance at a deposition and Fed. Rule Civ. Pro. 30 requires reasonable notice of
15 that deposition; and
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17 WHEREAS Sergio Lopez cannot receive a subpoena for attendance at his deposition until
18 his return from Mexico on July 29 or 30, 2007; and
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20 WHEREAS if Sergio Lopez is served with his deposition notice upon his return to the
21 United States, the earliest reasonable date for the depositions will be in the latter half of August,
22 2007;
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24 NOW, THEREFORE, the parties, through their attorneys of record, hereby stipulate and
25 request that the Court order as follows:
26

- 27 1. The parties are ordered to complete the depositions of Joseph Fahey and Sergio
28 Lopez not later than August 31, 2007;

2. Upon conclusion of these two depositions, the parties shall prepare simultaneous supplemental briefs, not to exceed ten pages, and shall file them not later than September 10, 2007;

3. All other aspects of the Court's June 22, 2007 Order Re: Supplemental Evidence remain unchanged.

Dated: June 28, 2007

Respectfully submitted,

LEWIS, FEINBERG, LEE,
RENAKER & JACKSON P.C.

By: /s/
Cassie Springer-Sullivan
Attorneys for Plaintiff

Dated: June 28, 2007

TRUCKER HUSS

By: [Signature]
Robert F. Schwartz
Attorneys for Defendant

PURSUANT TO STIPULATION, IT IS SO ORDERED.

Dated: June 29, 2007

Hon. Charles R. Breyer
United States District Court

